

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VAUGHN WAYNE MONROE,

Petitioner,

vs.

CIVIL ACTION NO. 04-74885
DISTRICT JUDGE PAUL D. BORMAN

HAROLD WHITE,

Respondent.

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ORDER DENYING A CERTIFICATE OF APPEALABILITY

Petitioner filed a Motion for Certificate of Appealability pursuant to 28 U.S.C. § 2253. “A certificate of appealability may issue under [§ 2253(c)(1)] only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Where a district court dismisses a petition on the merits, “[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Upon review of the record, reasonable jurists could not debate whether this Court was correct in its assessment of Plaintiff’s constitutional claims. Petitioner has argued that he was denied both a speedy arraignment and a speedy trial, and that he was denied due process when the trial court used a prior uncounseled conviction to enhance his sentence. Concerning Petitioner’s speedy trial claims, Magistrate Judge Komives noted that in the Sixth Circuit, “a speedy trial claim is a nonjurisdictional defect which is waived by the entry of a guilty plea.”

(Nov. 18, 2005 R&R, Docket Entry 16, 5).

In deciding Petitioner's claim of improper use of a prior uncounseled conviction, Magistrate Judge Komives stated that "[a]n objection to the use of a 'prior invalid conviction for enhancement purposes' is waived when a plea of guilty is entered to the enhancement charged." (R&R, Docket Entry 16, Nov. 18, 2005, 7) (citing *Randle v. Scott*, 43 F.3d 221, 226 (5th Cir. 1995)).

Petitioner waived his above claims when he chose to enter a guilty plea. Accordingly, the Court DENIES Petitioner's Motion for Certificate of Appealability.

SO ORDERED.

S/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: May 30, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on May 30, 2006.

S/Jonie Parker
Case Manager